

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1, 2, 3, 4, 5, 6, and 9-11 are rejected under 35 U.S.C. 102(b) over the patent to Elings.

The other claims are rejected under 35 U.S.C. 103(a) over the patent to Elings in view of the patent to Kotabashi.

Also, the disclosure is objected to.

In connection with the Examiner's objection to the disclosure, applicants have renumbered the specification.

After carefully considering the Examiner's grounds for the rejection of the claims, applicants have canceled claims 2, 3, 4, and 6, amended claim 1, and added independent claims 12 and 13.

It is respectfully submitted that claim 1 as amended clearly and patentably distinguish the present invention from the prior art applied by the Examiner.

Claim 1, the broadest claim on file, defines a method of quantitative determination of an image drift in a digital imaging microscope which uses a pattern including four features, with two features spaced in one direction and two features spaced in a perpendicular direction, wherein a center of each feature is determined and an offset of each feature in a set of images of pattern is determined as an offset of the center of each of the features.

Turning now to the references and in particular to the patent Elings, it can be seen that this reference discloses a feature which is identified with reference numeral 44. This is a single feature, and not four features. There is no four features in which a center of each feature is determined so as to obtain four centers spaced from one another in two mutually perpendicular direction, and then to determine an image drift as an offset of four centers of four features.

It is believed to be clear that this reference does not teach the new features of the present invention as now defined in the amended claim 1. The same is true with respect to the secondary reference.

The Examiner rejected the original claims over the patent to Elings as anticipated. This reference does not teach the new features of the

amended claim 1. In connection with this, applicant wants to cite the decision in re Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the reference does not contain all elements of claim 1 as amended. It is therefore believed that the Examiner's anticipation rejection should be considered as no longer tenable with respect to the amended claim 1 and should be withdrawn.

The Examiner's attention is respectfully directed to the features of claims 12 and 13. Claim 12 specifically defines that an image drift is determined, based on an offset of the central points between the centers of the features. The new features of the present invention as defined in claim 11 are also not disclosed in the references.

Claim 13 specifically defines that an image drift is determined by turning or rotation of the centers of the features in a set of pattern images. While the patent to Elings discloses a drift velocity vector, this has nothing to do with turning or rotation of the centers of the features. The turning or rotation is determined by first determining the centers of the features in the

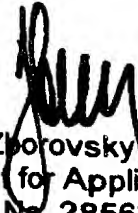
images of the patterns in a set, and then determining the displacement or turning, or rotation of the centers of the positions of the individual features in the images of the patterns. The new features of the present invention as defined in claim 13 are also not disclosed in the references and can not be derived from them as a matter of obviousness.

It is believed that claims 12 and 13 should be considered as patentably distinguishing over the art per se.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,



Ilya Zborovsky  
Agent for Applicant  
Reg. No. 28563